



Eastern Harbour City

Submissions Report

Sydney Eastern City Planning Panel No.	2017SCL040 RPA
LGA	Canada Bay LGA
Proposal	<p>The planning proposal seeks to:</p> <ul style="list-style-type: none">• rezone land from IN1 General Industrial to R3 Medium Density Residential;• increase the maximum permissible floor space ratio (FSR) from 1:1 to 1.6:1; and• increase the maximum height of the building (HOB) from 12 metres to 25 metres. <p>The proposal will also identify the land as a 'Flood Planning Area' as per clause 6.8 of Canada Bay LEP 2013, and as an 'Intensive Urban Development Area' as per clauses 6.9 and 6.10 of Canada Bay LEP 2013.</p>
Address	7 Concord Avenue, Concord West Lot 1 DP 219742
Applicant/Owner	Elton Consulting
Submissions	<ul style="list-style-type: none">• Public submissions (17)• Public agency submissions (7)• Submissions from Canada Bay Council (2)• Submission from the Hon. Jodi McKay MP, State Member for Strathfield• Proponent response to submissions (2)
Recommendation	Make submissions report publicly available and conduct public meeting.
Report by	Charlene Nelson, A/Manager, Eastern and South Districts – Department of Planning Infrastructure and Environment

1. INTRODUCTION AND BACKGROUND

The purpose of this report is to provide a summary of the key matters raised by members of the public, Canada Bay Council, public agencies and other stakeholders during the statutory public exhibition period of the planning proposal (PP_2017_CANAD_005_00) for 7 Concord Avenue, Concord West (the site).

1.1 The site and its local context

The site at 7 Concord Ave, Concord West, is zoned IN1 General Industrial and covers an area of approximately 1.5 hectares. Under Canada Bay LEP 2013, the site's controls provide a maximum FSR of 1:1 and a maximum building height of 12 metres.

Located on the corner of Station Avenue and George Street, the site is on the western side of the railway line approximately 300m from Concord West Station in the Canada Bay Local Government Area (LGA) (**Figure 1**). The T1 Northern Line provides train services to Epping and Hornsby via Strathfield and to Central, CBD and Chatswood.

The site's western boundary abuts Homebush Bay Drive and it is also in close proximity to major roads including the M4 Motorway, Parramatta Road and Concord Road. The site is located within the Homebush Precinct of the *Parramatta Road Corridor Urban Transformation Strategy 2016* (PRCUTS).

Uses surrounding the site include Bicentennial Park and Sydney Olympic Park to the west, Powells Creek Reserve to the south and west, Liberty Grove and the Rhodes Precinct to the north and the neighbourhood centre of Concord West, surrounded by low to medium density residential uses, to east. A pedestrian and vehicular underpass near the site also provides easy access to the Bicentennial Park and Homebush Bay parklands.



Figure 1: Location Map (Source: Google Maps 2020)

The site is occupied by a warehouse facility with an attached two-storey brick office building, comprising approximately 5,400m² floor space. The building is used for indoor recreation purposes including paintballing and go-karting. To the northern end, the building is separately used for the storage of concreting equipment (**Figure 2**).



Figure 2: The site (Source: Google Maps)



Site 3: Site Map (Source: Nearmap)

The main site access is via Station Ave, Concord West (**Figure 3**) and there is no vehicular access to the site via Concord Ave. The eastern side of the site is bounded by residential properties including a two storey townhouse development at 2 Station Street, and single storey dwellings from 28A to 42 King Street. The northern boundary is adjacent to the Liberty Grove medium density residential development. There is a development of two storey attached duplexes known as Kings Court at 1-5 Concord Ave, which is located along the Concord Avenue access to the site. The western boundary of the site fronts the elevated Homebush Bay Drive. An industrial premises which manufactures furniture adjoins the southern boundary. Victoria Avenue Public School is located approximately 150 metres south of the site.

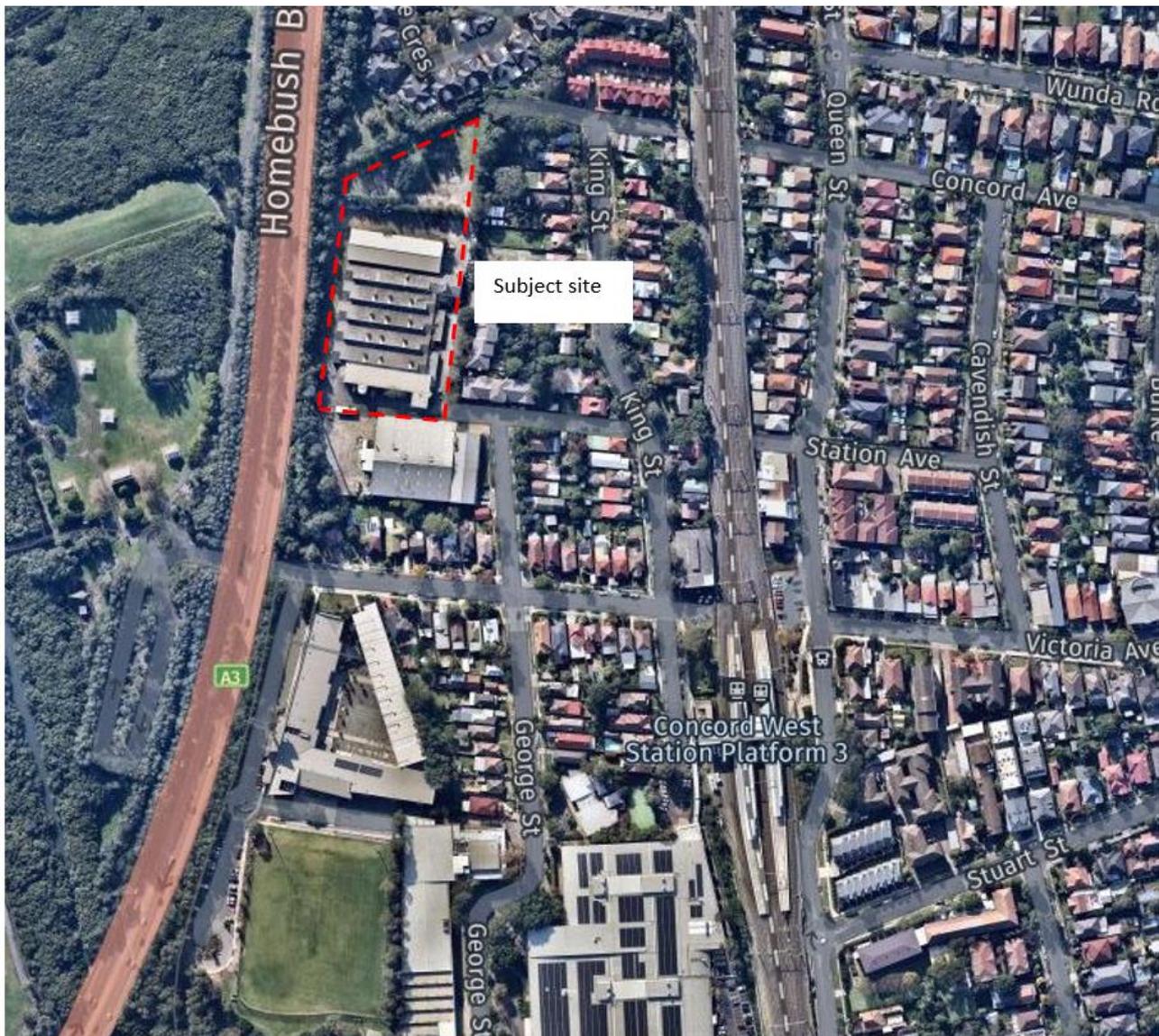


Figure 4: Site and surrounding development (Source: Nearmap 2020)

The site is surrounded by a mix of uses and zones, including R2 Low Density Residential and R3 Medium Density zones and SP2 Infrastructure zones (**Figure 5**). Surrounding sites are subject to maximum FSR controls of 0.5:1, 0.8:1 and 1:1; and maximum building height controls of 8.5 metres, 10 metres, 11 metres and 20 metres.

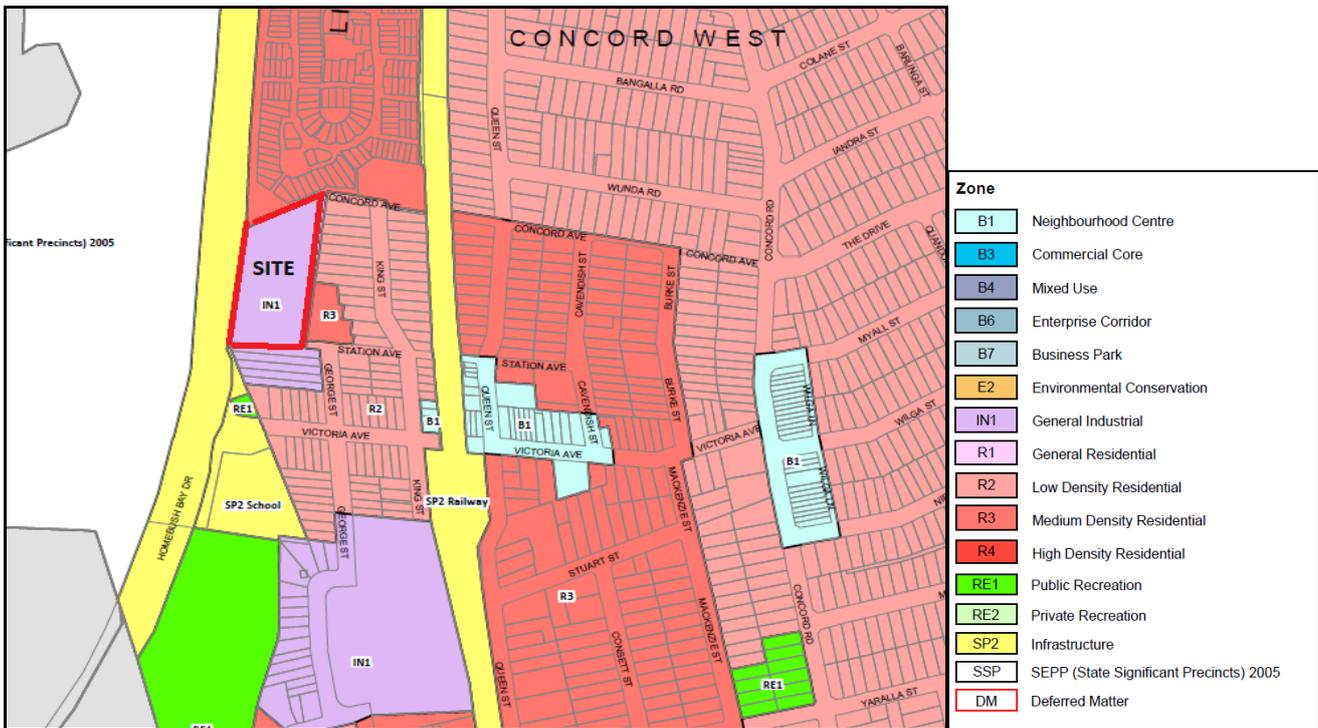


Figure 5: Zoning map (source: Canada Bay LEP 2013)

1.2 Planning context and background

(i) Draft Concord West Precinct Master Plan (2014)

The site and other land zoned for industrial use were considered by Council as part of the Concord West Socio-Economic Study (Hill PDA) and the draft Concord West Precinct Master Plan (JBA) in 2014. The draft Master Plan recommended that the site was suitable for rezoning to R3 Medium Density Residential and provided indicative heights and built form. The proposed controls provided a transition to the lower scale dwelling houses to the east, however it stated that the area is considered as being at high risk of flooding which requires investigation through the preparation of an area wide flood study.

(ii) Draft Concord West Precinct Master Plan Flood Study (2015)

In 2015, the draft Concord West Precinct Master Plan Flood Study was prepared for Council by Jacobs, and made recommendations to update Council's LEP to apply the model local provisions (flood planning) within the flood planning area defined in this study as well as prepare a new DCP to address the flood risk for the Concord West Precinct.

The site (known as Site 1) is identified in the draft flood study as being located in a low-lying area which experiences ponding of floodwaters during storm events. It was found that approximately two thirds of the precinct are at, or below, the Flood Planning Level (FPL) for residential development, including the subject site.

The study describes an existing overland flow path (located on 28A and 30 King Street) which discharges onto Site 1. Ponded water in this area then drains via an existing open drain to the west of the site along the Homebush Bay Drive embankment to a box culvert under the embankment, which discharges into the mangroves to the west of Homebush Bay Drive.

The study provided flood mitigation options for the precinct in response to the proposed rezoning under the draft master Plan. The Study included a Concept Flood Mitigation Option for the site that featured a 10m wide floodway channel (east west) through the site, conveying

flows from the existing overland flow path on 28A and 30 King Street to the existing open drain (Figure 6). The footprints of two buildings in the draft master plan would need to be separated by several metres to accommodate the floodway and internal roads and parking areas would be on fill with a finished surface level of minimum 2.1m AHD, a vehicular bridge over the floodway would also be required.

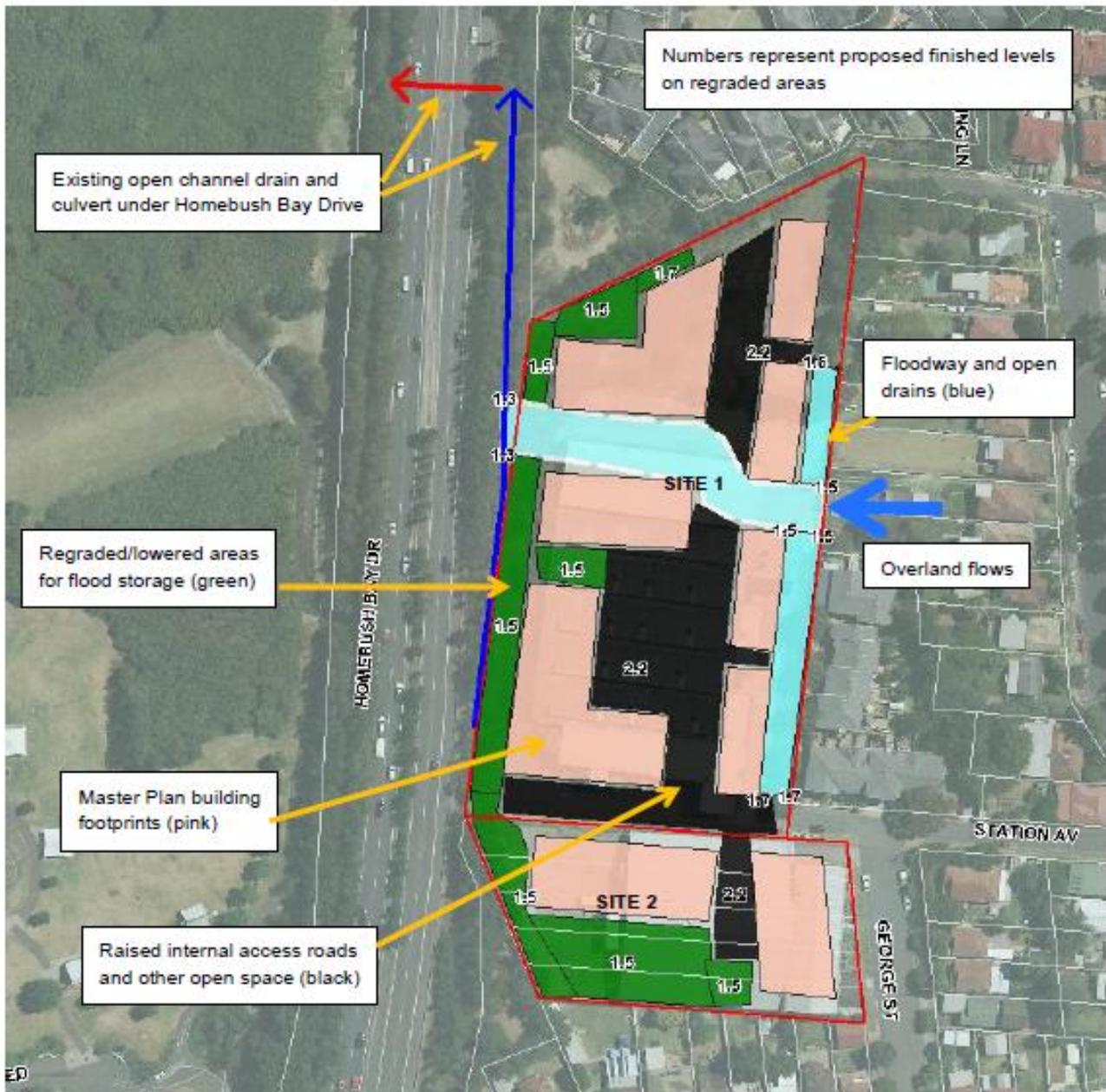


Figure 6: Flood Mitigation Option for Site 1 & 2 (Concord West Precinct Master Plan Flood Study (Jacobs 2015))

The study concluded that Site 1 (and the adjoining Site 2 which does not form part of the proposal) mitigation strategy maintains existing flooding conditions but does not provide improvements to existing flooding issues. It was noted that the options may not be effective if the proposed flood storage areas and the floodway were full of water prior to the start of a storm event, due to poor drainage and changes in sea level rise. The mitigation option considers that filling could result in peak flood level increases on neighbouring residential properties, which are already sensitive to baseline flood conditions.

Further investigations and design development were recommended to ensure the long-term viability of the flood mitigation strategy. It was considered that areas proposed for flood storage, as well as the floodway, are not considered safe for children and need to be fenced off with porous fencing. Ponding in these areas may also pose other amenity, health and safety issues.

It was also recommended that Council prepare a revised planning strategy for the site based on the findings of the draft flood study.

(iii) Parramatta Road Corridor Urban Transformation Strategy 2016 (PRCUTS)

The site is within the Homebush Precinct of the *Parramatta Road Corridor Urban Transformation Strategy 2016 (PRCUTS)* (**Figure 6**).

The proposed controls provided for the site under the Homebush Precinct recommend:

- the site be zoned for R3 Medium Density Residential;
- a maximum building height of 25m; and
- a maximum FSR of 1.6:1.

The planning proposal is consistent with these controls.

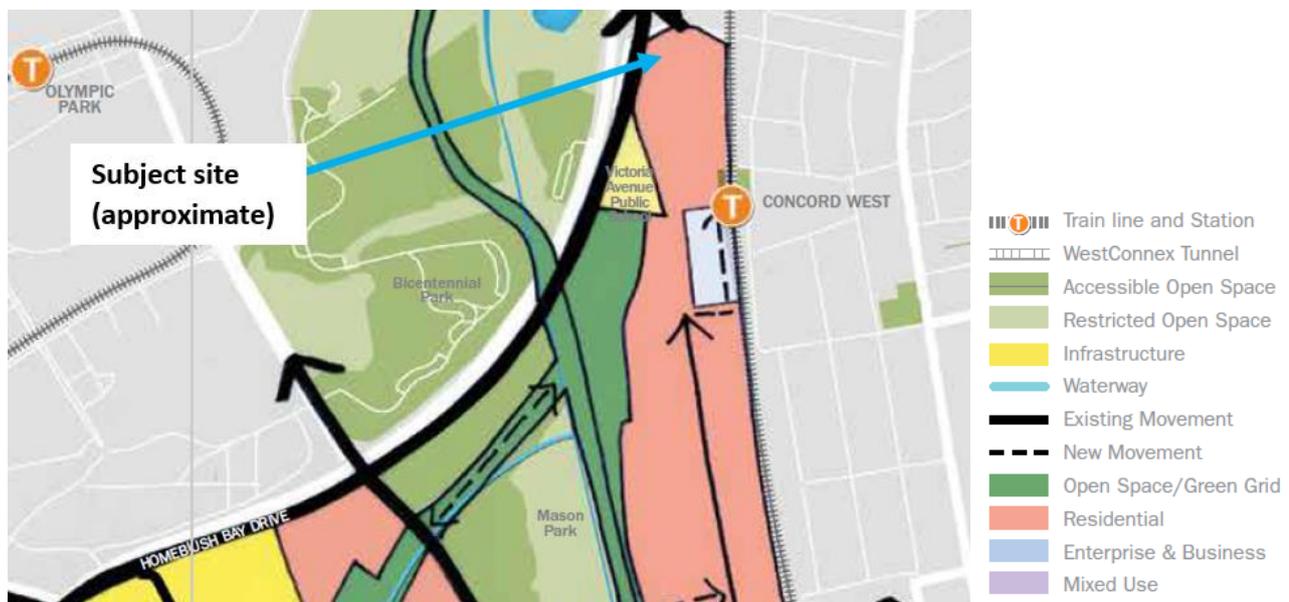


Figure 6: Parramatta Road Corridor Urban Transformation Strategy 2016 (PRUTS)

(iv) Burwood, Strathfield and Homebush Precinct

The Burwood, Strathfield and Homebush Precinct was identified by the Department as a planned precinct as it was experiencing population growth, offered transport links to Western Sydney and the CBD, access to an international sports and entertainment precinct and space for new homes and infrastructure.

Early investigations and community consultation was commenced by the Department with a project working group established with City of Canada Bay, Burwood and Strathfield Councils, as well as relevant State Government agencies to lead planning for the precinct.

In 2019, the Minister announced a new approach to precinct planning and identified the Burwood, Strathfield and Homebush Precinct as a Collaboration Precinct, where the Department will facilitate collaborative partnerships between Councils and agencies to resolve complex issues. It is envisaged that Councils would implement any subsequent rezonings.

Councils have also made recommendations as part of their Local Strategic Planning Statements (LSPS) for their areas.

(v) Canada Bay Local Strategic Planning Statement (LSPS)

Canada Bay Council's LSPS notes that collaboration between Council, adjoining Councils and State government agencies will be important to ensure the efficient use of existing, and timely delivery of new infrastructure to support new residential development, particularly in Planned Precincts and along the Parramatta Road Corridor. It notes that the *Parramatta Road Corridor Urban Transformation Strategy* (PRCUTS) will be implemented following the completion of background studies that demonstrate how additional dwellings can be sustainably accommodated.

Burwood and Strathfield Councils, together with Canada Bay, have identified the need for additional urban design, traffic and transport investigations. The three Councils consider this as essential work to ensure that all future decisions to rezone land are made with a thorough understanding of the potential cumulative impacts and will achieve orderly, transparent and consistent development, and above all, the highest quality planning and design outcomes.

Relevant actions in the LSPS for the planning proposal include:

- Action 5.1 Implement the Parramatta Road Corridor Strategy generally in accordance with the 2016-2023 Implementation Plan, following finalisation of a precinct wide traffic and transport study, and an urban design study, including the preparation of a precinct wide planning proposal; draft development control plan; affordable housing contributions scheme; and local contributions plan; and
- Action 19.1 Implementing flood related planning controls in accordance with the recommendations of the Concord West Precinct Flood Study. The LEP and DCP are to be amended to implement the recommendations of the Concord West Precinct Flood Study.

Action 19.1 means that as a minimum, the LEP should be amended to apply the LEP clause 6.8 Flood Planning to land to ensure development consent is not granted where it is not compatible with the flood hazard of the land; will not result in detrimental increases in the potential flood affectation of other development or properties; incorporates appropriate measures to manage risk to life from flood; will not significantly adversely affect the environment; and is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

1.3 Rezoning Review

The planning proposal was lodged with Canada Bay Council in December 2015, and a revised proposal submitted to Council in September 2016. On 21 February 2017, the City of Canada Bay Council resolved not to support the planning proposal. On 7 April 2017, a Pre-Gateway Review was lodged with the Department. The proposal was then referred to the former Sydney East Joint Regional Planning Panel.

On 8 June 2017, the Panel determined that the proposal demonstrated strategic and site-specific merit and was generally consistent with the PRCUTS for the Homebush Precinct. The Panel recommended that the proposal proceed to Gateway and that the following matters are addressed through a Gateway determination:

- the Section 9.1 Directions (former Section 117(2) Directions) including 4.3 Flood Prone Land and 7.3 Parramatta Road Corridor Urban Transformation Study;

- that investigations be made to find a precinct solution to both flooding for the north of Concord West train station and local transport east of Powells Creek and north of Pomeroy Street; and
- any FSR and building height controls be consistent with the PRCUTS.

1.4 The planning proposal and Gateway determination

The planning proposal seeks to amend Canada Bay Local Environmental Plan 2013 (LEP) to:

- rezone the site from IN1 General Industrial to R3 Medium Density Residential;
- increase the maximum floor space ratio (FSR) control from 1.1 to 1.6:1;
- increase the maximum building height control from 12 metres to 25 metres;
- identify the site as a “flood planning area” as per clause 6.8 (Flood planning) of the LEP to apply flood-related development controls; and
- identify the site as an “Intensive Urban Development Area” as per clause 6.9 (Arrangements for designated State public infrastructure) and clause 6.10 (Public utility infrastructure) of the LEP, to ensure adequate arrangements for the provision of designated State public infrastructure and delivery of utility infrastructure prior to redevelopment of the site.

On 8 January 2018, the Gateway determination (**Attachment A**) was issued, subject to conditions, that required the proposal to be updated to:

- reduce the proposed FSR from 1.76:1 to 1.6:1 to align with the PRCUTS;
- confirm how adequate arrangements for affordable housing and state infrastructure contributions will be made;
- demonstrate consistency with any available findings from the precinct wide Traffic Review and Flooding Study;
- include the site on the Flood Planning Map of Canada Bay LEP 2013;
- demonstrate consistency with the Draft Greater Sydney Region Plan and Draft Eastern City District Plan; and
- update the project timeline.

The Gateway determination report identified that the proposal is inconsistent with Section 9.1 direction - 4.3 Flood Prone Land as it seeks to significantly increase densities on flood prone land. It was considered that there was suitable justification to allow the proposal to proceed, however that the inconsistency with the direction remained unresolved until further justification is provided.

The letter accompanying the Gateway determination to the Panel advised agreement from the Department’s Secretary must be obtained to comply with the requirements of the directions, in relation to flood prone land and the Parramatta Road Corridor study, and recommended this occur prior to exhibition of the proposal. However, as this did not occur prior to exhibition, the Secretary’s delegate must consider these matters prior to finalisation. This is discussed later in the report under 4.1 Flooding.

An alteration to the Gateway determination was issued on 28 May 2020, extending the timeframe for completion of the LEP until 21 December 2020 (**Attachment B**).

1.5 Updates to the planning proposal to address Gateway conditions

The proponent submitted an updated planning proposal for exhibition dated August 2018 (**Attachment M**), with regard to Conditions 1(a) to (e) of the Gateway determination. The planning proposal was updated, prior to community consultation to:

- reduce the FSR to 1.6:1 consistent with the PRCUTS;

- identify the site on the 'Intensive Urban Development Area Map' to apply Clause 6.9 and 6.10 of the Canada Bay LEP 2013 and ensure adequate arrangements for the provision of designated State public infrastructure and delivery of utility infrastructure prior to redevelopment;
- outline the intent to supply 5% of development uplift as affordable housing as part of the proposal;
- note that there was no available information in relation to a precinct-wide Traffic Review at the time the planning proposal was updated for exhibition;
- indicate that the site will be identified on the 'Flood Planning Map' of the Canada Bay LEP 2013;
- include an assessment of the proposal's consistency with both the draft Greater Sydney Region Plan and draft Eastern City District Plan;
- note that the Burwood, Strathfield and Homebush precinct flooding study was still underway and there were no further findings available; and
- update the project timeline for completion.

The Department reviewed the revised planning proposal and advised the Panel Secretariat on 24 September 2018 that the updated planning proposal had addressed the conditions of the Gateway determination and could proceed to public exhibition. However, the section 9.1 directions remained outstanding and agreement of these by the Secretary would need to be sought should the plan be recommended to proceed to finalisation.

The revised planning proposal includes a revised Master Plan Concept (**Figure 7**) with the following key features:

- 261 new dwellings with building heights ranging from 3 to 8 storeys;
- a new north/south street through the site and cycle/pedestrian linkages;
- the transition of building heights from three storeys to eight storeys along Homebush Bay Drive; and
- a flood mitigation solution that preserves the current flood storage on the site and raises the height of common areas, private courtyards and internal roads substantially above the 100-year Average Recurrence Interval (ARI).

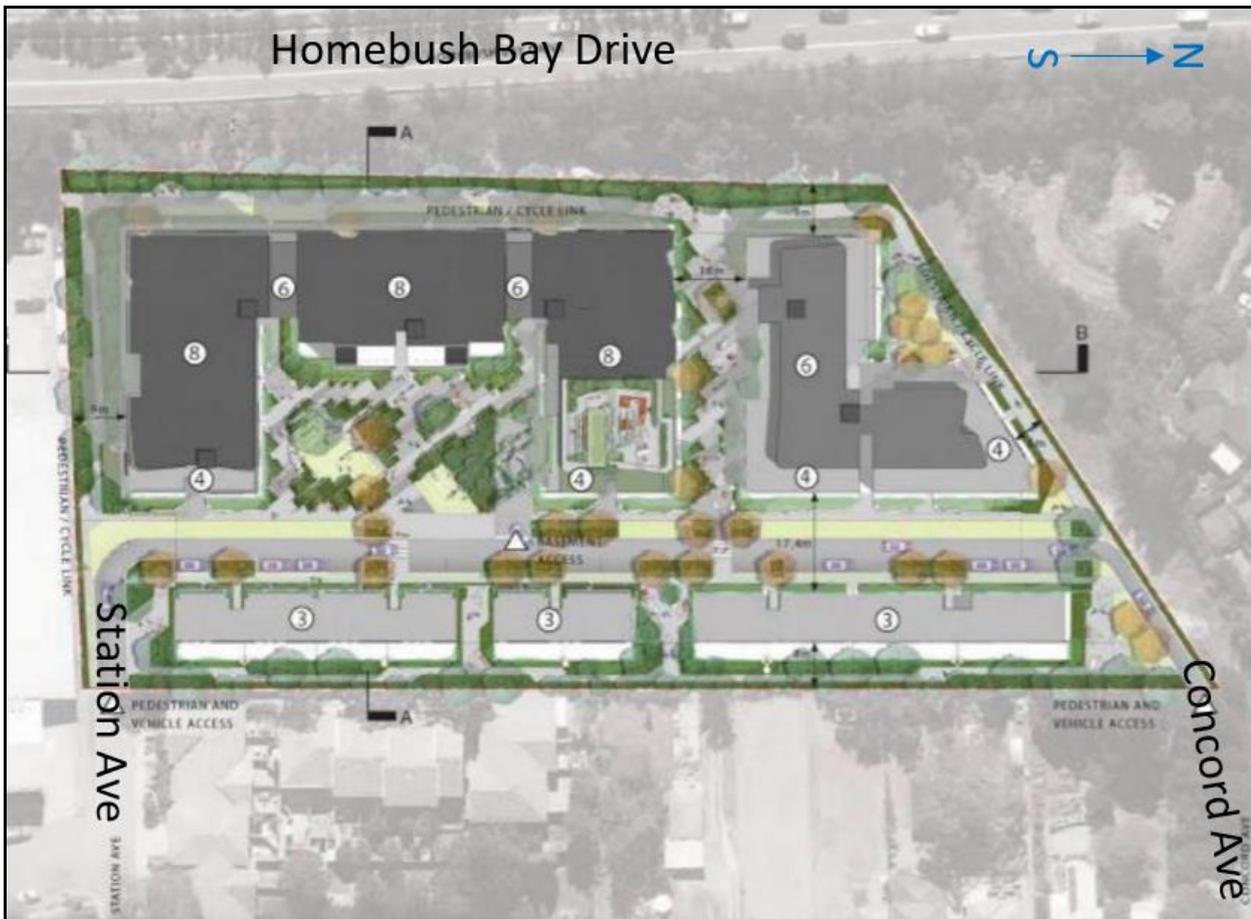


Figure 7: Revised Master Plan Concept

The proposal has been subject to a number of flooding studies commissioned by the proponent including a Flood Impact Assessment by IGS in 2016, a peer review undertaken by Cardno in 2016, and most recently a revised flood impact and flood risk assessment by Hydro Spatial in 2018. The exhibited proposal was updated to provide a preferred mitigation option (2) (**Figure 8**) reflecting the recommendations in the Hydro Spatial 2018 assessment and generally provides for:

- a publicly available refuge incorporated into the design of each of the buildings along the western boundary as occupants can take refuge in the floors above;
- a Flood Emergency Response Plan to be developed at the DA stage;
- a flood gate to the entrance to the basement car park;
- requirements relating to the construction and use of building materials; and
- fire safety requirements and the Canada Bay DCP to be addressed as part of the DA.

In summary, the mitigation option (**Figure 8**) depicts a highly engineered intervention including:

- a 14-metre wide central conveyance area extending beneath the elevated ground floor of the development;
- a 22-metre wide inlet structure to allow water near the eastern site boundary to enter the conveyance area;
- the inclusion of a 14-metre wide opening along the western site boundary towards Homebush Bay Drive;
- an additional 10-metre wide conveyance area running from the central conveyance area to the south-western corner of the site;
- the inclusion of a low flow pipe to discharge across Homebush Bay Drive; and
- additional flood storage areas to the north and south.

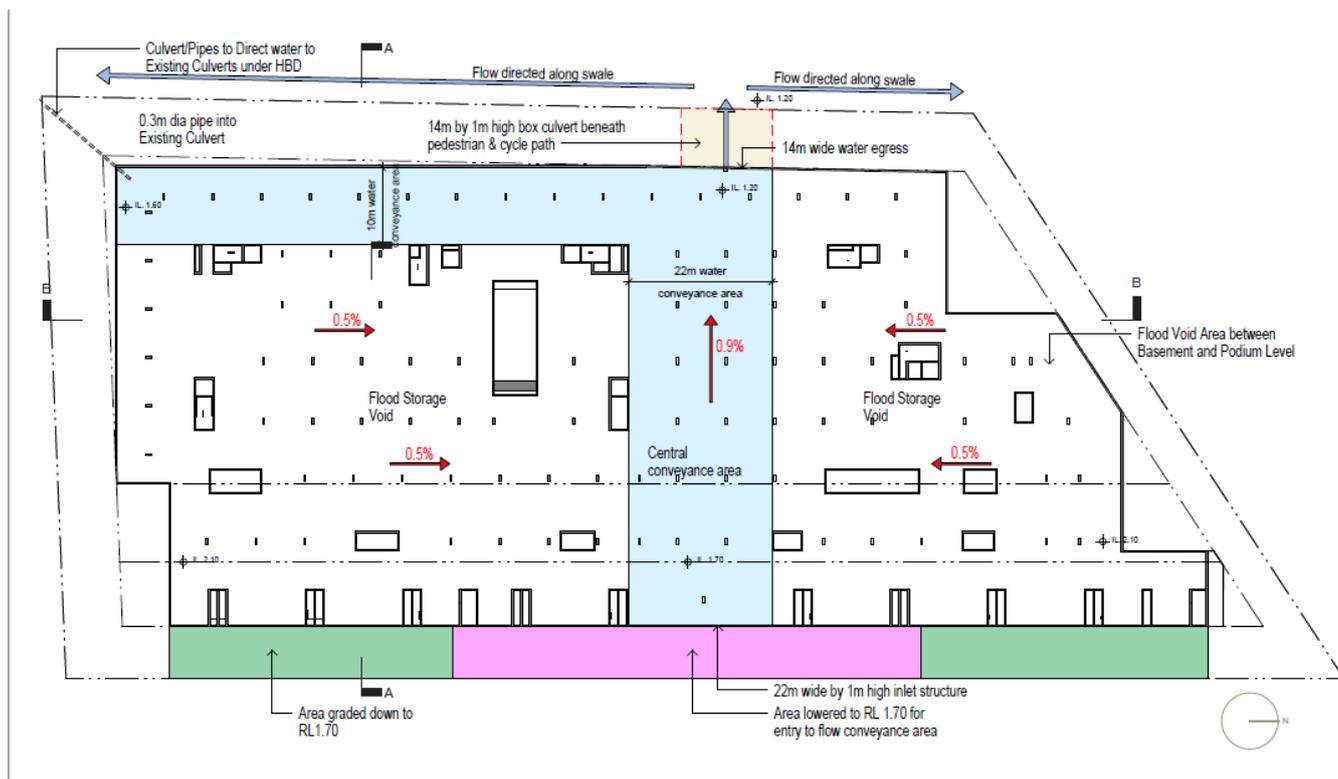


Figure 8: Mitigation option supporting the exhibited plan (Elton, planning proposal 2018 -Source: Antoniades Architects and Catchment Simulation Solutions 2018)

The flood assessment by Hydro Spatial (2018) estimates that the site is affected by depths of approximately 0.8 m in the 1% Annual Exceedance Probability (AEP) event and 2.4 m in the PMF event. In summary the assessment considers that in any given year the 1% AEP event has a 1% chance of occurring, or a 55.25% chance of occurring over an 80-year time frame. It is a reasonable expectation that a flood of this magnitude will occur over a lifetime. However, it is very unlikely that a flood with the magnitude of a PMF will occur over a lifetime. The proposal is discussed in more detail later in the report under key issues – 4.1 Flooding.

1.2 Agency consultation

The Proponent consulted with public authorities in early 2018, prior to the proposal being exhibited and further consultation was undertaken in accordance with the Gateway determination. Table 1 summarises agency feedback received regarding the planning proposal.

Table 1: Agency consultation feedback

Agency	Agency response/comments
NSW Fire and Rescue 14 February 2018 (Attachment C)	<ul style="list-style-type: none"> Recommended that roadway design be reviewed for compliance with minimum carriageway widths, turning radii, clearance heights and dynamic loads requirements specified in the Vehicle Access Guideline. If the review identified non-compliances with the Guideline, that the roadway design be appropriately modified.
NSW Land and Housing Corporation / Family and Community Services	<ul style="list-style-type: none"> No issues raised.

Agency	Agency response/comments
<p>26 February 2018 (Attachment D)</p>	
<p>Transport for NSW 13 March 2018 (Attachment E)</p>	<ul style="list-style-type: none"> • The site's location within the Parramatta Road Urban Transformation Corridor was highlighted and it recommended consistency with the controls under the PRCUTS. • TfNSW commented that the traffic report submitted with the planning proposal, does not address any future increase in traffic with consideration of the proposed density uplift in the PRCUTS Homebush Precinct. • The precinct wide traffic study required by the PRCUTS prior to any rezoning commencing is being undertaken by the relevant councils. • The subject proposal suggests higher parking rates than recommended in the PRCUTS for the Homebush Precinct. • Further work is required on the proposal's traffic study to demonstrate travel demand management measures. • The planning proposal should be updated to demonstrate consistency with the findings of the precinct-wide traffic study. • The proposal should identify funding measures towards the regional infrastructure identified in PRCUTS Implementation Plan. • The proposal should identify any upgrades to existing pedestrian and cyclist access, with consideration of the existing and planned walking network in the Precinct.
<p>NSW Police Force 23 March 2018 (Attachment F)</p>	<ul style="list-style-type: none"> • Expressed concerns in relation to increased criminal activity, parking issues and over-population. • Crime Prevention Officer for Burwood Police Area Command provided recommendations in relation to detailed design and security issues.
<p>Roads and Maritime Services 9 April 2018 (Attachment G)</p>	<ul style="list-style-type: none"> • Identifies the site's location in the Homebush Precinct of the PRCUTS and provides comments in relation to proposal having to be consistent with the PRCUTS. • The planning proposal should be revised where necessary to demonstrate consistency with the findings of the precinct-wide transport and traffic study for Burwood-Concord, and that exhibition of the proposal should be postponed to ensure that it is aligned with the Precinct-wide transport and traffic study. • A revised traffic study should be prepared to address comments relating to: <ul style="list-style-type: none"> - cumulative impacts arising from PRCUTS;

Agency	Agency response/comments
	<ul style="list-style-type: none"> - justification for traffic generation rates; - traffic distributions on the surrounding road network should be detailed and justified with reference to journey to work data for the locality; - current traffic study should be amended to align with parking provision in accordance with PRCUTS; - upgrades to existing pedestrian and cyclist access should be identified; - the proposal should identify appropriate funding mechanisms for contributions to regional infrastructure identified in PRCUTS.
<p>NSW Office of Environment and Heritage (OEH) 7 December 2018 (Attachment H)</p>	<ul style="list-style-type: none"> • Biodiversity studies or assessments have not been provided and the site may contain potential habitat for threatened species and ecological communities. • Impact on development of site on adjacent parklands and wetlands should be considered. • Proposal should demonstrate the protection of coastal saltmarshes and mangrove communities and water quality. • Stormwater plan should be submitted detailing pollution reduction targets. • An Acid Sulfate Soils Management Plan must be implemented as the site falls within Class 2 and the proposed excavation exceeds the depth of the groundwater table. • OEH is concerned with the impacts on the mangroves and Ramsar wetlands and considers the proposal to be inconsistent with the Coastal SEPP Clause 11. • OEH raises no objections to the proposed residential rezoning of the site from a flood risk perspective. • Recommend that any future development include flood signs indicating evacuation routes in detailed design. • Unclear whether an Aboriginal cultural heritage study has been done. This should be addressed at the earliest possible stage and recommends an archaeological assessment and a cultural heritage assessment. • Landscaping planting schedule should be updated to use local plants where appropriate. The proposal should detail how much green cover and canopy will be achieved. • Provisions relating to sustainability and building design should be included eg. green roofs. Suggested sustainability commitments should be detailed in the proposal and outlined in a VPA or DCP. • Clarify if the Precinct wide flooding study has commenced.
<p>NSW State Emergency Services (SES) 28 August 2019</p>	<ul style="list-style-type: none"> • The proposal will result in an increase of approximately 700 residential residents to the area which is flood prone which the water depth and velocity combined with the rapid rate of rise creates a hazardous environment for

Agency	Agency response/comments
(Attachment I)	future occupants. <ul style="list-style-type: none"> • The proposal will increase demand on and risk to NSW SES volunteers and other emergency services to respond to potentially dangerous situations. • The proposal would have difficulty in achieving the objectives of the Greater Sydney Region Plan, the Eastern City District Plan and the requirements of the Canada Bay LEP 2013 to minimise the flood risk.
NSW Health	<ul style="list-style-type: none"> • No response received.
Ambulance Service of NSW	<ul style="list-style-type: none"> • No response received.
Jemena	<ul style="list-style-type: none"> • No response received.
Department of Education	<ul style="list-style-type: none"> • No response received.
Sydney Water	<ul style="list-style-type: none"> • No response received.
Canada Bay Council 28 November 2018 (Attachment J)	<ul style="list-style-type: none"> • The proposal is inconsistent with Ministerial Direction 4.3 – Flood Prone Land. • 5% affordable housing is offered as part of the proposal however no evidence how this will be delivered is provided.

2. PUBLIC EXHIBITION

The planning proposal was publicly exhibited for 28 days from 1 November 2018 until 28 November 2018, in accordance with the Gateway determination.

The planning proposal and associated documents were made available on the Panel's website. Copies were also made available at:

- Service NSW Centres;
- Concord Library; and
- Canada Bay Civic Centre

3. SUMMARY OF SUBMISSIONS

A total of seventeen (17) public submissions were received from the members of the community, six (6) expressed support for the proposal and eleven (11) objected to the proposal.

One submission was received from City of Canada Bay Council on 28 November 2018 during exhibition, which objects to the proposal as it considers the proposal is unacceptable given the inconsistency with the Section 9.1 direction 4.3 for Flood Prone Land (**Attachment J1**). Council also raised concerns regarding the proposed mechanism to deliver affordable housing as part of the proposal. Council provided a response (**Attachment J2**) to the SES submission on 28 November 2018, confirming its significant concerns to the planning proposal in relation to flooding.

Seven (7) submissions were received from public authorities as summarised in **Table 1** above and these are attached (**Attachments C-I**).

One (1) submission was received from the Hon. Jodi McKay MP, the State Member for Strathfield, which supports the residents in the area who have objected to the proposal and raises objections with regard to the impacts of congestion on local roads and pedestrian access in the area (**Attachment K**).

3.1 Submissions supporting the proposal

Of the six (6) submissions which support the proposal, 4 are identical form letters.

These letters note that the proposal aligns with strategies for Metropolitan Sydney, the vision for a 30 minute city and provide the potential for further rezonings within the precinct of Burwood, Strathfield and Homebush. However, support for the proposal is conditional on providing adequate measures for the increase in traffic generation as a result of the proposal.

Other letters of support note that the proposal will remediate former industrial land and provide a vibrant residential community, however also raise issues including:

- the built form should be compatible with the surrounding heights and FSRs;
- an easement for drainage and Council stormwater pipe exists on the land that has not been adequately addressed in the planning proposal;
- the raising of land on the property has attributed to flooding to the rear of adjoining properties fronting King Street; and
- limited vehicular access is provided to the site from Station Ave.

3.2 Submissions opposing the proposal

Of the 11 submissions opposing the planning proposal, concerns were raised in relation to the following key issues:

- Traffic and transport issues (73%)
 - Traffic congestion (73%);
 - Pedestrian Safety and inadequate vehicular access (32%);
 - Lack of on-street parking and adequate off street parking (45%);
 - Public transport capacity (27%);
- Infrastructure provision to support development (61%)
- Flooding not adequately addressed (55%);
- Excessive building heights and density and impact on amenity (55%);
- Impact on existing schools (11%);
- Lack of public notification (5%);
- Further studies needed/out of date/information not provided (11%).
- Loss of industrial/employment land (5%);
- Biodiversity/environmental concerns (5%)

These issues are discussed in further detail in Section 4 below.

4. KEY ISSUES

The following section provides details of the key issues raised in submissions by the public, City of Canada Bay Council and public agencies. The Department's comments are also provided below.

The proponent was given the opportunity to respond to key issues raised in submissions. The proponent responded on 14 August 2018 (**Attachment L**) and the comments are included below. The proponent also provided an additional response (**Attachment N**) to a submission from SES on 19 September 2019.

4.1 Flooding

Public Submissions:

Seven (7) public submissions raised concerns about an increased risk of flooding. Concerns from community members detail previous flooding events and the potential for an increased building footprint and raising of land on the subject site will impact water flows. Submissions stated that the survey failed to show an easement for drainage and the existing Council stormwater pipe. Residents were also concerned that the issues raised by Canada Bay Council in relation to the flooding concerns and consistency with Section 9.1 directions had not been adequately addressed in the proposal.

City of Canada Bay Council Submission:

Council objects to the planning proposal with regard to potential flooding impact and advised of their concerns recommending the proposal should not be supported due to its inconsistency with Section 9.1 Direction, 4.3 – Flood Prone Land. Council made a submission during exhibition and also provided a response to submissions.

Council expressed concerns that the planning proposal does not exhibit site specific merit for the following reasons:

- is inconsistent with the follow parts of Section 9.1 Direction 4.3
 - (6)(a) as it would permit development in a floodway area;
 - (6)(c) as it would permit a significant increase in the development of the land;
 - (6)(d) as it is likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure and services;
 - (9)(a) and (b) as a floodplain risk management plan has not been prepared and the inconsistency is not of minor significance;
- is inconsistent with the recommendation of the Sydney Central Planning Panel that required consistency with Section 9.1 Direction 4.3;
- is inconsistent with Action 75 of the Eastern City District Plan that seeks to avoid locating development in areas exposed to natural hazards;
- is inconsistent with the objectives of clause 6.8 – Flood Planning of the Canada Bay Local Environmental Plan 2013;
- would expose a significant number of people to an unacceptable level of risk; and
- would create unacceptable amenity impacts for future occupiers of the site due to the proposed flood mitigation measures.

NSW Office of Environment and Heritage (OEH) comments:

OEH did not raise objections to the proposed residential rezoning of the site from a flood risk perspective. OEH advises that the revised flood impact assessment (2018) adequately addresses the impacts of the proposed development and rezoning of the site.

It also advises that the assessment demonstrates suitable mitigation solutions and demonstrates that potential flood impacts can be appropriately mitigated. However, OEH does recommend that the Flood Emergency Response Plan provide additional flood signage detail indicating evacuation routes and a review of mitigation options in the PMF event (**Attachment H**).

OEH also raised concerns in relation to the environmental impacts of the proposal and how runoff and water quality from the site is to be managed in this sensitive environment. OEH also notes that proposal states that the flow velocities in flood events are increased because of the proposal and is concerned about the impact on mangroves and Ramsar wetlands.

NSW State Emergency Service (SES) comments:

NSW SES advises (**Attachment I**) the proposal will result in an increase of approximately 700 residential residents to the area which is flood prone. The information provided on the water depth and velocity combined with the rapid rate of rise creates a hazardous environment for future occupants.

NSW SES believes the proposal will increase the risk to their operations by:

- increasing the number of people who need to be evacuated or rescued; and
- placing increasing demand on and risk to NSW SES volunteers and other emergency services to respond to potentially dangerous situations.

The advice mentions that the flood depths in a 2% Annual Exceedance Probability (AEP) flood on the site are between 0-0.5m. The flood depth increases to 1-2m for much of the site in a Probable Maximum Flood (PMF) and for parts surrounding the site, greater than 2m. This indicates that the site exhibits high hazard in a PMF due to depth alone. The rate of rise is particularly fast and the time to a peak PMF could be as little as 10 minutes with a maximum flood depth on the site of 1.35m. Similarly, the 1% AEP flood has a time to peak of 25 minutes, with a maximum depth on the site of 0.56m.

NSW SES also advises that the velocity on the site is relatively low, with most of the site exhibiting velocity up to 0.5m/s in flood events up to and including the PMF. However, Station and King Streets appear to exhibit high flow velocity in flood events from the 1% AEP up to and including the PMF.

NSW SES states the proposal would have difficulty in achieving the objectives of the Greater Sydney Region Plan, the Eastern City District Plan and the requirements of the Canada Bay LEP 2013 to minimise the flood risk to life and property associated with the use of the land, allowing development that is compatible with the land's flood hazard, having appropriate measures to management risk to life from flood and avoiding unsustainable social and economic costs to the community as a consequence of flooding.

Proponent comments:

The proponent acknowledges the site is subject to flooding and has responded to the SES submission (**Attachment N**). The proponent considers that the 2018 Flood Impact Assessment and Flood Risk Assessment undertaken by Hydro Spatial, determines that the flood risk can be mitigated through structural/physical measures that would be incorporated as part of the development of the site. The proposed development raises the ground floor/first floor to 3.2m AHD and notes that this is above the 1% Annual Exceedance Probability (AEP) flood level and would only be affected in extreme events.

The Flood Risk Assessment submitted by the proponent (Hydro Spatial 2018) considers that the planning proposal is only inconsistent with Clause 6(c) of the Section 9.1 direction 4.3 – *Flood Prone Land* as it would permit a significant increase in the development of the land. The proponent's report concludes that this is considered of minor significance as the site has been identified for renewal through a master planning process; the site has been subject to several studies which have identified solutions to the flood risk on the site; the site is classified as medium flood risk category; and development controls and flood emergency management provide effective flood risk management for events up to the PMF to enable change in land use

without increase in overall flood risk. The report concludes a further detailed assessment of flood risk and flood emergency response will be undertaken at DA stage and provides reference to other planning proposals that have similar mitigation measures which were found to be acceptable.

The proponent further states that a flood emergency plan and warning system will be developed and implemented through the body corporate of the proposed development, which will be responsible for informing and educating all residents to the flood risk. Shelter refuge areas are provided for ground floor residents to shelter in place.

With a Flood Emergency Management Plan and warning system, it is expected that there will be no increased reliance on NSW SES during any flood evacuation of residents and visitors of the ground floor of buildings, as shelter within higher levels in the various buildings during extreme floods is available and planned for via the Flood Emergency Management Plan and warning system.

The proponent states that during extreme floods relatively high hazard flood waters can occur in the area around the development, however, even in the PMF the flood only remains hazardous for around 2-3 hours, with nearly all flood water receding by 4 hours. It is noted that evacuation is not feasible or prudent as a result of the short warning times.

Department Comments:

The applicant has submitted a Flood Risk Assessment prepared by Hydro Spatial (2018) supporting the exhibited proposal. The study was updated after the receipt of the Gateway determination to address potential flood impacts in greater depth and the proposal's inconsistency with *Direction 4.3 Flood Prone Land*.

The revised proposal also seeks to identify the site on the Flood Planning Map in Canada Bay LEP 2013 in accordance with the Gateway determination. This activates the application of Clause 6.8 Flood Planning, which would ensure the detailed consideration of flooding as part of any future development application for the site.

Should the proposal be considered acceptable to proceed to finalisation, the agreement of the Department's Secretary (or nominated officer) will need to be obtained with respect to Section 9.1 *Direction 4.3 – Flood Prone Land*, on the basis that the provisions of the planning proposal that are inconsistent are of minor significance.

The HydroSpatial (2018) Flood Risk Assessment supporting the proposal concludes that the planning proposal is inconsistent with Clause 6(c) of Section 9.1 *Direction 4.3 Flood Prone Land* and considers that this inconsistency is of minor significance for the following reasons:

- the site has been identified for renewal through the master planning process;
- the site has been subject to several studies which have identified solutions to the flood risk on the site;
- the site is classified as medium flood risk category and development controls and flood emergency provide effect flood risk management for events up to the PMF to enable change in land use without increase in overall flood risk;
- a further detailed assessment of the flood risk and flood emergency response will be undertaken at the DA stage; and
- there are a number of planning proposals with similar flooding conditions and mitigation measures to address flood risk were found to be acceptable significance.
- The assessment also recommends the flood response on site is Shelter in Place as evacuation is likely to be unfeasible due to the nature of flash flooding and this presents

a greater risk to occupants than Sheltering in Place. Occupants will typically shelter in place from less than one hour to a maximum of 3 hours.

The Department has considered the proponent's assessment under Section 9.1 Direction 4.3 - *Flood Prone Land* and remains concerned that flooding issues do not appear to be fully resolved for the site. Council has also raised concerns about consistency with the Section 9.1 Direction 4.3 - *Flood Prone Land*. Of particular concern, is that the inconsistency with the Direction does not appear to be able to be supported on the basis that it is minor. The sections of the Direction where the inconsistency lies is highlighted below:

Part 6 of Direction 4.3 requires that a planning proposal must not contain provisions that apply to flood planning areas which:

- (a) permit development in floodway areas,
- (b) permit development that will result in significant flood impacts to other properties,
- (c) permit a significant increase in the development of that land and
- (d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure or services.

The Department raises the following issues for each items (a) to (d):

- (a) The proposal will permit development in a floodway area

The HydroSpatial 2018 report considers the proposal consistent as the area does not contain a floodway for either the baseline or developed case, as shown Figure A8 and D10. The report does not clearly explain why it is considered not to contain a floodway. The figures referenced do not seem to be provided in the report.

Council's comments consider the subject site to be located in a floodway in accordance with the Floodplain Development Manual 2005 and considers the blockage of the site would cause diversion of flows and impact on upstream levels. The Jacobs (2016) flood study also reference a floodway on the site.

The Department considers that more explanation is needed as to why the planning proposal is considered not to be located in a floodway.

- (b) the proposal will permit development that will result in significant flood impacts to other properties

The HydroSpatial report advises that the proposal is consistent as it will have no flood impacts (under mitigation scenario 2) to other properties as shown in Section 5. The Department is concerned to ensure that the proposed mitigation works do not adversely affect other properties should a blockage or problem with the mitigation cause the diversion of flow onto neighbouring sites.

- (c) The proposal would permit a significant increase in the development of the land;

The proposal seeks to rezone the site from General Industrial (IN1) to Medium Density Residential (R3) which will increase the development of the land significantly, as it will allow for residential development with approximately 260 dwellings and approximately 700 residents.

The planning proposal acknowledges it is inconsistent with direction, however considers this to be a minor inconsistency. The Department considers that:

- Despite the site being identified in Council's draft Concord West Master Plan (2014) and the PRCUTS for rezoning to medium density residential, the subsequent flood study (2016) raises significant and unresolved flooding issues. Council's LSPS recommends implementing the recommendations of the draft Concord West Precinct Master Plan Flood Study which includes introducing LEP and DCP controls. The Jacobs flood study also recommends that Council prepare a revised planning strategy for the site based on its findings.
- The Department is concerned about the highly engineered mitigation option proposed and the ongoing risks to public safety that will be the responsibility of the strata body corporate, Council and the SES to manage.
- The flood studies highlight risks with the proposed flood storage areas and a floodway which are located close to the building footprints. Both the flood storage areas and the floodway are considered hazardous to children on the basis of depth of the flood behaviour. Considering safety to people, both the flood storage areas and floodway would require flood compatible fencing and ongoing maintenance to avoid blockages and public health concerns.

(d) are likely to result in a substantially increased requirement for government spending on flood mitigation measures, infrastructure and services;

The HydroSpatial report (2018) considers the proposal consistent as the proposed flood emergency response plan for the site will not require additional assistance from emergency services and no external flood mitigation measures or infrastructure will be required. The Department considers that:

- Council has raised concern that the proposal is likely to result in a substantial increase in the requirement for government spending on infrastructure and drainage upgrades. Council raises that maintenance of drainage by way of removing sediment due to frequent inundation of their site which would comprise several hundreds of cubic metres and there is no clear responsibility that this is accepted by all the parties (including Council, RMS & SOPA).
- State Emergency Service (SES) has also made a submission it believes the proposal will increase the risk to their operations by increasing demand on and risk to NSW SES volunteers and other emergency services to respond to potentially dangerous situations.
- The Chief Engineer of the Department reviewed the responses from SES and the proponent and generally noted that the proponent's emergency response procedures have merit and are consistent with similar engineering practices elsewhere.
- Whilst the proposal does indicate a shelter in place response, the flood risk assessment found that due to the flash flood nature of the catchment, there would be negligible opportunity for vehicular escape from the site prior to or during the flood. Accordingly, emergency services are still featured in the plan and therefore will be required to assist should flooding occur.
- The response relies on the strata committee to provide a flood warden and the occupants be made aware of the roles and responsibilities. There may be the potential for visitors to the site and there is also concerns about the rapid nature of the flood indicated in the assessment.

The Department has regard to City of Canada Bay's comments and the concerns raised by SES highlighting the difficulty the proposal has achieving the objectives of the Greater Sydney Region Plan, the Eastern City District Plan and the requirements of the Canada Bay LEP 2013 in regard to flood risk to life and property.

The flooding issues do not appear to be fully resolved for the site. The information provided to date does not provide a level of certainty that the Secretary's delegate could consider would satisfy the requirements of the section 9.1 direction 4.3 Flood Prone Land, as it would be difficult to conclude that the flooding issues would be of minor significance. It is noted that Council also considers the proposal to be inconsistent with this direction.

4.2 Traffic and transport issues

The planning proposal is informed by the Traffic and Transport Impact Statement prepared by Thompson Stanbury Associates (TSA) (14 August 2018) and the Assessment of Traffic and Parking Implications prepared by Transport and Traffic Planning Associates (TTPA) (December 2015 – Revision D)). Key findings from these reports indicate that there would be no significant adverse impact in terms of:

- traffic generation and congestion;
- the operation and level of service of nearby intersections;
- road network capacity; and
- the requirement for road improvements or intersection upgrades.

(i) Traffic congestion and generation

Public submissions:

Traffic generation/congestion was the most common issue raised in public submissions, with 14 submissions expressing concern relating to current and cumulative traffic congestion. This concern was also raised in five submissions that generally supported the planning proposal.

The key issues raised in relation to traffic concerns were:

- limited vehicular access to and from the site;
- narrow local roads, particularly providing access to the site;
- pedestrian safety;
- upgrades required to intersections and the performance of the intersection of George Street and Pomeroy Street and inadequate traffic light operation (currently all traffic from this area will need to travel via George Street and Pomeroy Street intersection);
- the roundabout at the intersection of Underwood Road, Homebush Bay Drive and Australia Avenue;
- the Transport and Traffic plans are considered out of date and did not consider cumulative impacts of future development.

Transport for NSW (TfNSW) comments:

TfNSW, which includes the former RMS, provided the following comments on the proposal (**Attachment E**). There was no further submission received from TfNSW during the exhibition.

- The traffic report does not address any future increase in traffic with consideration of the proposed density uplift in the Homebush precinct identified under PRCUTS and other strategies and should be amended to reflect these.
- Public exhibition should be postponed to ensure that the planning proposal aligns with the transport study and infrastructure improvements.

Proponent response

The exhibited planning proposal was supported by the most recent Traffic Impact Assessment by Thompson and Stanbury Associates (2018) which concluded that the road network surrounding the site currently provides motorists with a good/satisfactory level of service; and provides that the proposed development is expected to generate 52 morning and 41 evening

peak hour vehicle trips to and from the site which is considered to be significantly less than that capable of being generated by the previous and existing operational uses occupying the site.

The study concludes that the development is therefore not projected to have any unreasonable impacts on the level of safety and efficiency afforded by the existing surrounding road, pedestrian and public transport network. The strategic planning process for Concord West and other surrounding Precincts forming part of the Parramatta Road Urban Transformation Strategy (PRUTS) has considered the broader traffic and transport infrastructure requirements (including intersection upgrades) to service the additional demand generated by future land uses including the proposal. This is detailed in previously prepared traffic studies and are to be further refined in new precinct specific studies currently being undertaken by the relevant Councils. Further, a Precinct Wide Traffic Review is currently being prepared for the Burwood, Homebush and Strathfield Planned Precinct and will expand on and review the findings of the Precinct Transport Report that was prepared as part of the PRUTS.

The study and supporting modelling will consider the proposed land uses and densities, as well as future WestConnex conditions, and identify the necessary road improvements and upgrades that will be required to be delivered as part of any proposed renewal in the precinct.

Department response

The Gateway determination required the proposal to be updated prior to exhibition with regard to any available findings of the Burwood-Concord Precinct-wide Traffic Study. At the time of exhibition, the study was in progress and no findings had been released to inform the planning proposal. The precinct-wide traffic studies including modelling for the PRUTS are currently in progress.

As this proposal was submitted to Council in September 2016 and considered by the Panel in 2017, the Department has regard to advice from Urban Growth NSW (as circulated to Councils within the corridor in January 2017) (**Attachment O**), that those planning proposals already under consideration prior to the release of the final Strategy should not be delayed nor required to provide further traffic studies in addition to those already submitted in support of planning proposals, or as required by a Gateway determination.

The Proponent submitted a Traffic and Transport Impact Statement which found that the proposed development is not projected to have any unreasonable impacts on the level of safety and efficiency afforded by the existing surrounding road, pedestrian and public transport network to warrant any potential improvements.

The planning proposal was also updated prior to exhibition to identify the site on the Intensive Urban Development Area Map, which will ensure that Clause 6.9 and 6.10 of the Canada Bay LEP 2013 will apply to future development on the site to provide for contributions toward designated State public infrastructure including roads and public transport infrastructure.

It is considered that the issues raised in the submissions included adequate carriageway widths and site access will be subject to further detailed assessment at development application stage, and that such concerns, and the comments of TfNSW (former RMS), can be addressed in more detail at that time.

(ii) Pedestrian Safety and inadequate vehicular access

Pedestrian safety and site access was raised as a concern in 32% of public submissions as well as the submission by Fire and Rescue (**Attachment C**).

NSW Fire and Rescue comments:

Fire and Rescue NSW provided the following comments on the proposal:

- The roadway design needs to comply with FRNSW's Vehicle Access Guidelines with consideration for the minimum roadway access requirements of FRNSW emergency vehicles including:
 - the minimum carriageway widths;
 - turning circle radius;
 - clearance heights; and
 - dynamic loads requirements.

Proponent comments:

Access to the property is via Station Avenue in the south-eastern corner and Concord Avenue connects to the site at the northern eastern boundary and there is currently no access to the site from this point.

The proposal seeks to provide vehicular access to the site via a new north/south local road running through approximately the centre of the site, facilitating connectivity between Station Avenue in the south and Concord Avenue in the north (**see Figure 7**). This roadway would operate as a one-way north bound direction. The street will include indented on-street parking bays and shared path along both sides of the road.

The proposal does not propose widening of Concord Avenue. The Traffic Impact Assessment (2018) by Thompson Stanbury and Associates stated the proposed development is projected to have a lower peak traffic generating capacity compared with the existing/previous land uses. The existing road infrastructure and intersection controls in the immediate vicinity of the site are capable of accommodating the peak traffic generated by the proposed development during the interim period.

Station Avenue is proposed to be upgraded to a shareway with enough space to enable pedestrians and vehicles to safely share the carriageway. In addition, the proponent states that the new proposed street will integrate into the shareway and surrounding streets. The new shareway was identified in the draft Master Plan for Concord West Precinct and subsequently in Council's Contribution Plan where it is listed as a high priority and planned to be delivered by 2031.

The proponent amended the proposal in response to agency comments prior to public exhibition. The subsequent traffic impact statement (TSA) concluded that there are no traffic related matters of significance and confirmed its support for the proposed development.

The TTPA assessment considered matters of access and circulation; traffic; parking and servicing; and provision for pedestrians and cyclists and concluded that there will not be any adverse or unsatisfactory traffic or parking implications resulting from the envisaged development scheme.

The proponent has addressed the comments made by NSW Fire and Rescue in regard to site access to be in accordance with requirements of Policy No.4 Guidelines for Emergency Vehicles and advise that it has been updated prior to public exhibition to comply with the requirements of the Vehicle Access Guideline (the Guideline) to ensure adequate access for FNSW emergency vehicles. This will be addressed in detail at the DA stage.

Department comments:

The Proponent submitted a Traffic and Transport Impact Statement which found that the proposed development is not projected to have any unreasonable impacts on the level of

safety and efficiency afforded by the existing surrounding road, pedestrian and public transport network to warrant any potential improvements.

It is considered that the issues raised in the submissions particularly with regard to detailed design can address pedestrian safety measures and will be subject to further detailed assessment at development application stage.

(iii) Lack of on-street parking and adequacy of parking off street

The planning proposal suggests 319 car parking spaces will be provided on the site with a maximum of one resident car parking space per apartment and one visitor space per 10 apartments. This means there will be 290 resident spaces and 29 visitor spaces. Access to off-street parking is proposed via the creation of a new street to connect Station Street and Concord Ave, Concord West (Figure 7).

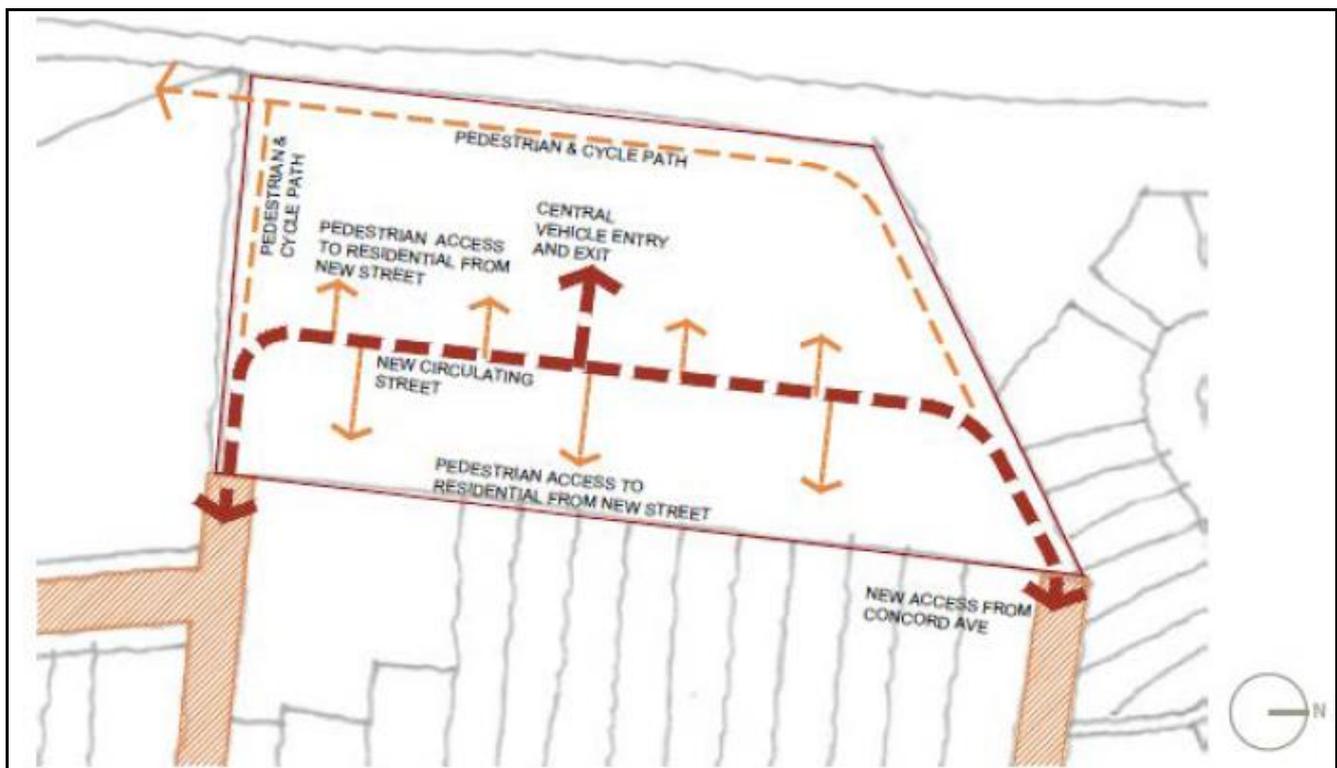


Figure 7: Site location (Source: Urban Design Report, Antoniades Architects, 2016)

Public submissions:

Six submissions raised concerns in relation to parking, in particular:

- Congestion along the narrow streets and inadequate access to the site
- Limited on street parking spaces for nearby residents and commuters at Concord West Railway Station.
- Lack of proposed on-site parking.

Transport for NSW (former RMS) comments:

- TfNSW (former RMS) notes (**Attachment E**) that the traffic assessment accompanying the planning proposal proposes higher parking rates than what is recommended by the PRCUTS regarding the Homebush Precinct.
- TfNSW states that the proposed parking rates should be consistent with the recommendations of the PRCUTS.

NSW Police Force comments:

NSW Police Force provided the following comments (**Attachment F**):

- Due to the number of boarding houses, affordable housing and other developments occurring within Concord West and surrounding areas, there is a concern of increased criminal activity, parking issues and over population.
- Due to the location, the number of car parking spaces per dwelling should be re-considered. NSW Police recommend one parking space per bedroom. This is recommended to ease street parking for existing residents and reduce the potential risk of vehicle theft.
- It is also recommended that the ceiling of the car park be painted white to increase visibility and reflect light.

Proponent comments:

The proponent states that adequate parking for residents and visitors will be accommodated on site in accordance with the parking rates in the Parramatta Road Urban Transformation Strategy Precinct Transport Plan for the Homebush precinct. The rate for visitor car parking is 0.1 per dwellings. The Concept Master Plan proposes 260 dwellings which equate to 26 visitor car spaces. The number of visitor car parking will be confirmed at the DA stage.

Department comments:

The site is located within an area that is well serviced by public transport. Due to the availability of public transport and proximity to services, it is considered that car dependency may not be as high in other locations.

RMS raised concerns in relation to the traffic assessment which proposes higher parking rates than recommended in the PRCUTS for the Homebush Precinct. The precinct falls under Category 2 Medium Accessibility location and the rates in the PRCUTS provide for 0.3 spaces for studio, 0.5 spaces for 1 bedroom, 0.9 spaces for 2 bedroom, 1.2 spaces for 3 bedrooms and 0.1 space per dwelling for visitor parking. The planning proposal and proponent's response to submissions states that the proposal will comply with the PRCUTs parking rates.

The parking rates will be subject to further consultation with RMS and Council as part of any Development Application. It is noted the submission from the NSW Police Force encourage higher parking rates to reduce potential crime risk in the area. The provision of car parking and other design matters are details which are more appropriately addressed at the development application stage.

(iv) Public transport capacity

Public submissions:

Five submissions raised concerns in relation to the already overcrowded train line servicing Concord West and one referred to the fact that no bus serviced the immediate vicinity.

City of Canada Bay Council submissions:

Council states that the proposal needs to be updated to reflect any available precinct wide findings or solution to traffic as informed by the Burwood, Strathfield, Homebush Planned Precinct and Burwood-Concord Precinct Study (**Attachment J1**).

Transport for NSW (TfNSW) comments:

Transport for NSW noted the need to identify appropriate funding mechanisms towards infrastructure particularly transport improvements under the Implementation Plan of the PRCUTS (**Attachment E**).

Proponent comments:

The proponent states the overcapacity of Northern train line has not been raised as an issue by Transport for NSW (TfNSW) to date. It is understood that demand modelling will be undertaken by TfNSW to ascertain the exact needs of the precinct and if required rail frequencies will be increased at Concord West Station and other stations to support growth in the Precinct.

Department comments:

As noted, after a revised planning proposal was submitted prior to public exhibition, no traffic studies have become available in relation to the Burwood, Strathfield and Homebush Planned Precinct, nor the Burwood-Concord Precinct study.

The revised proposal identifies the site on the 'Intensive Urban Development Area Map' and triggers the application of Clause 6.9 of the Canada Bay LEP 2013. Clause 6.9 ensures that adequate arrangements for designated State public infrastructure are required prior to development consent being granted. This has been updated in accordance with the Gateway condition.

TfNSW's submission was received prior to the proposal being updated to amend clause 6.9 of Canada Bay LEP to require satisfactory arrangements for infrastructure. TfNSW was also consulted on the exhibited planning proposal and no further submission was received.

4.3 Infrastructure Provision

The Department requires that all proposals within priority growth areas and precincts, such as the Parramatta Road corridor, acknowledge that a satisfactory arrangements provision for contributions to designated State public infrastructure may be required in the final instrument.

The Parramatta Road Strategy Infrastructure Schedule identifies the corridor's infrastructure requirements, and states that in order to deliver or contribute towards the delivery of that infrastructure, planning proposals within the corridor will need to demonstrate that satisfactory arrangements are in place.

Following the Rezoning Review, the Department determined that the proposal should proceed to Gateway and include a 'satisfactory arrangements' provision for contributions to State public infrastructure designated under the Parramatta Road Strategy.

Public submissions:

16 submissions highlighted concerns relating to various infrastructure issues. Concerns cover the potential strain on existing infrastructure, and questions there will be any supporting infrastructure such as transport and traffic infrastructure, schools, parking, open space, and employment opportunities.

Transport for NSW (former RMS) comments:

TfNSW noted that the proposal should identify appropriate funding mechanisms for developer contributions in relation to regional infrastructure (**Attachment E**).

Proponent comments:

Clause 6.9 of the Canada Bay LEP 2013 will ensure that contributions for designated State public infrastructure including roads and public transport infrastructure is made prior to the development of the site (wholly or partly) for residential purposes to satisfy needs that arise from development on the land. The clause requires that the Secretary certify in writing prior to the consent authority that satisfactory arrangements have been made to contribute to the

provision of designated State public infrastructure in relation to the land on which the development is to be carried out. As such should the DA progress prior to the SIC being prepared, an agreement with government will need to be negotiated.

The proponent states that Council's contribution plan provides details of the local transport infrastructure and public domain upgrades required for the precinct. As part of any development consent, contributions are required to be paid to contribute to any infrastructure and public domain upgrades.

Department comments:

The Gateway determination required that prior to public exhibition the planning proposal is to be amended to demonstrate consistency with any available findings of a draft or final strategic planning review for the Parramatta Road corridor. There has been no findings released for the purposes of updating for exhibition and the studies remain underway.

The planning proposal has also been updated to identify the site on the "Intensive Urban Development Area Map" of the Canada Bay LEP 2013. This allows for the application of Clause 6.9 Arrangements for designated State public infrastructure. Clause 6.9 ensures that satisfactory arrangements for state public infrastructure have been made prior to development consent being issued.

The Department notes the community's concerns about the capacity of existing infrastructure. It is considered that the inclusion of satisfactory arrangements clause for contributions to designated state public infrastructure will address these concerns.

4.4 Excessive building heights and density and impact on amenity

The planning proposal includes an updated Concept Design Report, a draft Development Control Plan (DCP) and a report intended to demonstrate achievable compliance with the Department's Apartment Design Guide (2015).

The proposal seeks to allow up to 260 apartments, an increase in FSR from 1.1 to 1.6:1, and a range of building heights from 12 metres to 25 metres.

Public submissions:

Eight submissions expressed concern in relation to excessive building heights and density and that the proposal represents a significant overdevelopment of the site and impacts on amenity were also of concern.

One submission expressed concern that the proposal would result in development that was "out of character" with the local area and its existing low-density residential character.

Seven submissions suggest that the proposal, in particular the height of the buildings was inconsistent with other developments zoned R3 in the area. One submission supported the redevelopment of the site if it maintained an FSR of 0.5:1. However, the existing FSR is twice this amount at 1:1. The same submission recommended that an uplift in FSR should occur to the surrounding area at the same time, rather than increasing the development potential of the site in isolation.

The loss of amenity due to the proposal was identified in terms of privacy and loss of sunlight and increase garbage collections required as a result of the proposal.

Proponent comments:

The proponent states that Concord West Master Plan and supporting studies undertaken by Council identified the site for redevelopment. This informed the preparation of the PRCUTS including the Planning and Urban Design Guidelines. The proposal is consistent with the building heights and densities in the PRCUTS at a maximum building height of 25m and FSR of 1.6:1.

The proponent states that heights of building are sympathetic to the topography of the site and that the proposal enhances the amenity and environment of the site and local area through:

- the provision of high quality public landscaped areas and communal open space; and
- new public access and improvements to the public domain connecting the wider area

Department comments:

The PRCUTS (2016) recommends the site be rezoned to R3 Medium Density Residential given its proximity to public transport. A maximum floor space ratio (FSR) of 1.6:1 is recommended for the site. Additionally, the PRCUTS recommends a height of building control of 25m. The proposal is consistent with the recommended development standards outlined in the PRCUTS.

Amenity of the area can be considered at the detailed design stage when the concept is further developed and may be addressed further through the imposition of appropriate conditions of consent.

4.5 Impact on existing schools

Public submissions:

One submission raised concerns in relation to the impact of overcrowding in the local schools.

Agency submissions:

No comments have been received from the NSW Department of Education.

Proponent comments:

The proponent believes the SIC framework currently being prepared for the Growth Area will identify state and regional social infrastructure (including the requirement for new and/or upgraded primary and secondary schools across the priority growth area) and provide the mechanism for funding.

Department comments:

A condition of the Gateway determination required the Department of Education be consulted on the proposal. However, no submission was received by the Department of Education.

The PRCUTS Infrastructure Schedule (Homebush Precinct) indicates that in the medium to long-term (2024-2054) the precinct will require new schools, of which 50% of this is to be funded by the way of satisfactory arrangements. The amendment will identify the site on the Intensive Urban Development Area Map and as such Clause 6.9 of the Canada LEP 2013 will apply. This ensures any future development application will provide a monetary contribution towards State public infrastructure which includes schools.

4.6 Lack of public notification

Public submissions:

One submission noted that they did not receive adequate notification of the planning proposal.

Proponent comments:

The proponent states that this is a matter for the Panel Secretariat.

Department comments:

The Department provided a map to the Panel of the nearby properties that it considered may want to be notified to comment on the proposal. Details of relevant landowner addresses were provided to the Panel from the Council database. The Department notes that although this process was followed there were several properties that were not notified. However, notification of the proposal was provided on the Department's website and in a local newspaper circulating in the area in accordance with the Act and A Guide to preparing local environmental plans (2018).

4.7 Loss of industrial / employment land

Public submissions:

One submission refers to the loss of industrial land and its contribution to employment in the local area.

Department comments:

At the time of the Gateway determination the Eastern City District Plan had not yet commenced. As such, the current retain and manage approach to industrial lands (as per the current district plan) was not in effect.

Action 5.1 of the Eastern City District Plan relates to retaining and managing industrial and urban services land by safeguarding all industrial zoned land from conversion to residential development. The District Plan states that from time to time there will be a need to review the list of appropriate activities in consideration of evolving practices which must take into consideration findings of industrial, commercial and centre strategies.

The Greater Sydney Commission issued an Information Note (SP2018-1) – Industrial and Urban Services Land (Retain and Manage) – Transitional Arrangements on 5 October 2018. The Department notes that the planning proposal was lodged prior to March 2018 and had been referred to and supported by the Panel. Therefore, the progression of the planning proposal is in keeping with the Information Note and can proceed to be finalised if considered appropriate by the Panel.

4.8 Biodiversity

The planning proposal indicates that there are no significant environmental impacts that cannot be managed.

Public submissions:

Two submissions referred to the proposal having an adverse effect on the natural environment. The submissions noted that the planning proposal has made no reference to the Moreton Bay Fig located on the site. The submissions also note the importance of the tree to local wildlife including possums and fruit bats. Additionally, the submissions note that the tree is located adjacent to several other native trees that create a sensitive ecosystem.

Office of Environment and Heritage (OEH) comments:

OEH provided the following comments on the proposal (**Attachment H**) as follows:

- The proposal contains no biodiversity studies or assessments, even though the site contains potential habitat for threatened species and ecological communities. OEH recommends all constraints to the proposal, including direct and indirect impacts on

biodiversity values are considered and impacts on threatened flora and fauna should be prepared.

- The proposal has identified ground water contamination, soil contamination and acid sulphate soils occurring on site and the proposal should consider the impact on the adjacent parklands/wetlands as the site drains to Bicentennial Park.
- The proposal should adequately demonstrate the protection of coastal saltmarsh endangered ecological communities, mangrove communities and the water quality of the creek and the river that supports threatened species.
- The proposal indicates an extensive basement excavation is proposed and Aboriginal heritage should be investigated and addressed at the earliest possible stage of the planning process. This includes the completion of an archaeological assessment and a cultural heritage assessment.
- The Landscape Masterplan needs updating to include the use of local provenance plants to support ecological communities. OEH discourages the use of exotic plants due to its proximity to Bicentennial Parklands, Ramsar wetlands and mangroves/saltmarsh community.
- The proposal to include details to increase urban tree canopy cover and delivering Green Grid connections to meet the Planning Priority E17 of the District Plan.
- The proposal to include the provisions and design controls relating to sustainability including water sensitive urban design, urban tree canopy and green cover to assist with reducing the urban heat island effect and improving liveability.
- Development of site specific controls for built form, open space, site access, parking, serving and bicycle facilities, building design and the public domain to provide certainty on the developments social and environmental benefits and contributions towards the commitment of Ecologically Sustainable Development.

OEH recommends the proposal should be consistent with priorities and actions with the Eastern City District Plan, Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005, Parramatta River Estuary Coastal Zone Management Plan and Coastal Management SEPP.

Proponent comments:

The site is adjacent to land containing terrestrial biodiversity and that proposed flood mitigation measures could adversely impact nearby mangrove habitat. In response to this the Proponent commissioned HydroSpatial and Catchment Solutions to undertake flood modelling and found that the proposed development is predicted to cause small increases in flow velocity during the 1% AEP flood and PMF; and, that the proposed development is not predicted to increase the total amount of time that the mangroves would be exposed to freshwater inundation during future floods.

The proponent commissioned a Biodiversity Constraints Report prepared by Travers Ecology to assess the ecological values of the site and advised that the assessment confirms the study area is not located on lands mapped within the Biodiversity Offsets Scheme (BOS) as Biodiversity Values Land therefore an offset is not required under this trigger. The report notes that some of the vegetation within the study area (0.08ha) is attributable to Swamp Oak Floodplain Forest (SOFF), which is listed within the NSW *Biodiversity Conservation Act* (2016) and also within the Commonwealth *EPBC Act* (1999), as an Endangered Ecological Community (EEC). However, the report concludes that under the *EPBC Act*, the SOFF remnant doesn't meet the criteria for listing under this Act.

The proponent has addressed these issues in the response to submissions and considers that as the study area contains 0.08ha of native SOFF vegetation, the Biodiversity Offsets Scheme

(BOS) area threshold for vegetation clearing is 0.25 ha and therefore does not exceed this threshold. The response considers that the removal of such vegetation on site would not trigger a significant impact under the *Biodiversity Conservation Act* given the size, fragmentation or isolation of the remnant. The report made only one recommendation for replacement landscaping to use locally occurring native species to be implemented at the detailed design stage. The proponent considers any

further studies or approvals required under the EPBC Act would need to be addressed at development application stage.

Department comments:

The Office of Environment and Heritage's comments and the proponent's response are noted. It is considered that a further comment should be sought from Office of Environment in relation to whether the proponent has adequately addressed the matters raised in its submission and in the Ecological report, or whether any further studies are required in relation to the identification of Swamp Oak Floodplain Forest (SOFF), which is listed within the NSW *Biodiversity Conservation Act* (2016) and also within the Commonwealth EPBC Act (1999), as an Endangered Ecological Community (EEC). These matters should be clarified at the planning proposal stage rather than deferring to the development application stage and prior to finalisation of the plan, should it be recommended to proceed.

The Department notes section 9.1 Direction 2.6 Remediation of Contaminated Land requires the planning proposal authority to consider land contamination and remediation. The planning proposal is accompanied by a detailed remediation action plan, which concludes that remediation is required to make the site suitable for the proposed development. The proposal also confirms that an acid sulfate soil management plan has been completed.

5.0 Other matters raised in Submissions - Inadequate affordable housing provision

The revised planning proposal states that the proponent intends to supply 5% of the permissible development uplift as Affordable Housing. The proposed FSR for the site is 1.6:1, indicating a development uplift of 0.6:1. The total site area is 15,000m², indicating a potential development uplift of 9000m². This means that 450m² (5%) of the future Gross Floor Area is to be designated as affordable housing.

Public submissions:

No public submissions raised concern in relation to the provision of affordable housing.

City of Canada Bay Council submission:

Council is concerned that the revised planning proposal provides agreement stating it intends to provide 5% of the additional Gross Floor Area as Affordable Housing, however, there is no evidence how this provision will be achieved nor explains if there is a mechanism in place to deliver the affordable housing.

Proponent comments:

The proponent states Affordable Housing can be delivered via State Environmental Planning Policy No. 70 - Affordable Housing (Revised Schemes) (SEPP 70) as a condition of consent or through a voluntary planning agreement at the DA stage.

Department comments:

It is noted that the planning proposal provides no evidence as to how affordable housing is to be provided by the proponent. The Department also notes that 5% of development uplift to be dedicated as affordable housing aligns with the recommendations of the PRCUTS.

Councils in NSW, including the City of Canada Bay Council, may prepare an Affordable Housing Contributions Scheme under the State Environmental Planning Policy No. 70 - Affordable Housing (Revised Schemes). This allows Council to impose conditions of consent that require the provision of Affordable Housing. However, this would require an LGA-wide affordable housing provision in the Canada Bay LEP 2013 and to date this has not been implemented. The City of Canada Bay Council's draft Affordable Housing Contributions Scheme has recently been publicly exhibited as part of its LSPS and associated LEP amendment which received a Gateway determination on 28 April 2020.

The only mechanism currently available to provide affordable housing is through a Voluntary Planning Agreement between the proponent and Council. To date, this option has not been taken up by the proponent and Council. As such, the proponent has not demonstrated that affordable housing will be provided as part of the planning proposal.

6.0 STATE MEMBER COMMENTS/REPRESENTATIONS

The State Member for Strathfield, the Hon. Jodi McKay MP, wrote to the Mayor of Canada Bay, expressing concern in relation to local traffic congestion and pedestrian access:

- congestion on local roads particularly Concord Avenue; and
- pedestrian access in the local area.

The Member of Parliament's submission states her support for the objections of local residents (**Attachment K**). These matters have been considered under Section 4 of this report which considers the Key Issues raised in submissions.

7.0 CONCLUSION AND RECOMMENDATION

It is considered that the proposal has demonstrated strategic merit, particularly in terms of its location and status in the Homebush Precinct as identified in *the Parramatta Road Corridor Urban Transformation Strategy*, and its proximity to public transport. Further, certain issues raised at exhibition are matters that relate to detailed design considerations and will need to be addressed through the development application stage. These matters include:

- traffic generation and congestion;
- parking;
- building height, density and final overall built form; and
- infrastructure;

The Department considers that flooding raises substantial issues that have not been fully resolved in the planning proposal and that unresolved Council, community and agency concerns remain in relation to flooding.

The Department also considers that the proposal remains inconsistent with Section 9.1 Direction on Flood Prone Land and the information submitted indicates it is unlikely to fall into the category of being a minor inconsistency.

The Department considers that further comments should be sought from the former Office of Heritage and Environment, prior to finalisation of the plan, to clarify if the proponent's response and Ecological Study has addressed the concerns raised in its submission, or if further information or approvals are needed to be provided in relation to addressing the environmental concerns about Biodiversity.

It is recommended that the Sydney Eastern City Planning Panel, as relevant planning authority:

- **notes** the matters raised in the submissions;
- **releases** the submissions report publicly; and
- **conducts** a public meeting
- **provides advice** to the Minister on whether the proposal should proceed to finalisation and if so, in what form.

Endorsed by:



Brendan Metcalfe
A/Director
Eastern and South District



Malcolm McDonald
Executive Director
Eastern Harbour City

ATTACHMENTS:

- Attachment A: Gateway determination – 8 January 2018
- Attachment B: Gateway alteration – 28 May 2020
- Attachment C: Fire and Rescue NSW submission
- Attachment D: Land and Housing Corporation submission
- Attachment E: Transport for NSW submission
- Attachment F: NSW Police submission
- Attachment G: Roads and Maritime Service submission
- Attachment H: NSW Office of Environment and Heritage submission
- Attachment I: State Emergency Services submission
- Attachment J1: City of Canada Bay Council submission
- Attachment J2: City of Canada Bay Response to Submissions
- Attachment K: Submission from Local Member
- Attachment L: Proponent's response to Submissions
- Attachment M: Exhibited Planning proposal August 2018
- Attachment N: Proponent response to SES submission
- Attachment O: Urban Growth Letter regarding planning proposal in the PRCUTS.
- Attachment P: Revised Flood Impact and Flood Risk Assessment (Jun 2018)